

MINUTES
OF
THE UTAH RADIATION CONTROL BOARD
March 5, 2004
Department of Environmental Quality (Bldg. #2)
Conference Room 101
168 North 1950 West
Salt Lake City, Utah 84114-4250

BOARD MEMBERS PRESENT

Karen S. Langley, M.S., Chair
Dianne R. Nielson, Ph.D., Dir. of DEQ
Dane Finerfrock, Executive Secretary
Keith C. Barnes, J.D.
Kent J. Bradford, P.G.
Gary L. Edwards, M.S.
Rod O. Julander, Ph.D.
Linda M. Kruse, M.S.
Gregory G. Oman, D.D.S., B.S.
Robert S. Pattison, B.Sc.
John W. Thomson, M.D.
Gene D. White, Commissioner

PUBLIC

Alan C. Grundrig, ATK Thiokol Propulsion
Tye Rogers, Envirocare of Utah, Inc.

BOARD MEMBERS ABSENT/EXCUSED

Stephen T. Nelson, Ph.D., Vice Chair

DRC STAFF/OTHER DEQ MEMBERS
PRESENT

Edith Barker, DRC Staff
Dean Henderson, DRC Staff
John Hultquist, DRC Staff
Craig Jones, DRC Staff
Loren Morton, DRC Staff
Fred Nelson, Attorney, DEQ/Atty Gen's Ofc
Ray Nelson, DRC Staff
Yoli Shropshire, DRC Staff
Laura Vernon, DEQ PPA

GREETINGS/MEETING CALLED TO ORDER

The Utah Radiation Control Board convened in the DEQ Building #2, Room 101, 168 North 1950 West, in Salt Lake City, Utah. The meeting was called to order at 2:00 p.m. by Karen Langley, Chair to the Board. Karen Langley welcomed all members and public attending the meeting, and indicated that if the public wished to address any items on the agenda to sign the public sign-in sheet. Those desiring to comment would be given an opportunity to address their concerns during the comment period.

I. APPROVAL OF MINUTES (Board Action Item)

a. Approval of December 5, 2003 Minutes

**MOTION MADE BY JOHN W. THOMSON TO APPROVE THE
MINUTES OF DECEMBER 5, 2003 SECONDED
BY KEITH C. BARNES.**

MOTION CARRIED AND APPROVED UNANIMOUSLY

II. RULES (No Items)

III. RADIOACTIVE MATERIALS LICENSING/INSPECTION (Board Information Item) – Craig Jones

a. 2003 Annual Enforcement Summary

Craig Jones provided the Board with a summary of the Civil Penalties instigated by the Division of Radiation Control from January 2003 through December 2003. A copy of the list of penalties was made available to each of the Board members. The penalties were considered by the Board with the exception of Envirocare. In previous Board meetings, Envirocare's penalties were considered by the Board.

Comments From Board Members:

Pacific Technical Services was issued a "cease and desist" order by the Executive Secretary on October 31, 2003. The licensee was working in Utah under reciprocal recognition of its California Radioactive Material License. It was discovered on October 29, 2003, during an inspection, that the industrial radiographer was not certified. Karen S. Langley, Chair, asked if notification of the "cease and desist" order in Utah was sent to their original license in California. Craig Jones stated that a courtesy copy of the order was sent to the California Radiation Control Program. He noted that California had not adopted the Nuclear Regulatory Commissions' rule that requires industrial radiographers to be certified. Regardless of that fact, when entities come into Utah they must be compliant with the conditions and requirements of the Utah Radiation Control rules, such as certification requirements.

**IV. X-RAY REGISTRATION/INSPECTION
(Board Information Item) – Craig Jones**

a. Registration Fee Changes

Craig Jones discussed the fee proposals that Radiation Control submitted to the Governor's Office. The proposal requested increases in registration fees and inspection fees. In the Appropriations Sub-committee a decision was made to eliminate Radiation's proposal to increase inspection fees. However, the Sub-committee approved an increase for x-ray tube registration fees from \$15.00 to \$35.00 dollars per x-ray tube. The fee increase is codified by law in the Senate Bill 1, Appropriations Act. Craig Jones stated that Dan Harry in the March 5, 2004, issue of the Salt Lake Tribune mentioned there were 500 fee increases totaling 4.5 million in the Appropriations Bill. Craig Jones said that the registration fees for x-ray systems were a small fraction of the monies appropriated. He estimated that the x-ray registration and inspection program would recover approximately 84% of the costs of the X-ray Section through fees for the fiscal year 2005.

Comments From Board Members:

Dianne Nielson, DEQ Director, stated that prior to going to the Appropriations Sub-committee, the Department looked at financial alternatives to fee increases. Radiation Control was able to reduce the fee impact because the Division of Air Quality established a fee to help alleviate the general fund shortfall. Air Quality established a fee on gravel pit operations. At the conclusion of the 2003 Appropriations Sub-committee, funding was reduced to DEQ from the general funds budget by \$250,000.00. The Appropriations Committee, however, provided DEQ with the opportunity to return in 2004 and propose other fee increases to compensate for the loss of the \$250,000.00 in general funds. The Division of Air Quality took a \$250,000.00 budget cut in 2003; consequently, Air Quality reduced the quantity of air monitoring activity. In 2004 DEQ returned to the Appropriations Sub-committee and indicated that costs to the general funds could be reduced by charging gravel pit operations a regulatory fee (instead of using the general funds). This enabled DEQ to reduce the fee increases for Radiation Control. Dianne Nielson stated that she appreciated Craig Jones and Dane Finerfrock's efforts in compiling program costs and determining the impacts of the fee increases.

**V. RADIOACTIVE WASTE DISPOSAL
(Board Information Items) - Dane Finerfrock**

a. Changes to the Radiation Control Act

Dane indicated that in the Board packets, the Board members could refer to House Bill 145: "Approval Required for Disposal of Radioactive Wastes." Representative Urquhart sponsored House Bill 145. It addresses a number of problems with section 105 of the Radiation Control Act. The Bill defines Terms related to regulation of radioactive waste facilities, deletes outdated provisions and amends approval requirements for radioactive waste facilities. House Bill 145 requires approval from the legislator, the Governor and local governing

bodies who are responsible for planning and zoning before radioactive waste facilities may receive certain types and concentrations of radioactive waste. In addition, a new tax will be imposed on mixed wastes that have not been taxed.

The most significant change will be the requirement for legislative, Governor and local government approval for certain wastes. The new approval requirements were stimulated by the legislatures concern over the Fernald, Ohio wastes being redefined as 11e(2); however, even if the Fernald wastes were redefined, they would have exceeded Radiation Control's Class A waste regulations for principle contaminant radium 226. However, the legislature and the Governor are required to approve license amendments that Radiation Control and the Radiation Control Board approve, if radioactive wastes result in an increase concentration of radioactive materials in the waste.

House Bill 145 will impact the 11e(2) license agreement status that the U.S. Government is turning over to the State of Utah to regulate in a few months. The Bill, however, will exempt the legislature and Governor from approval of Class A waste being sent to Envirocare, since Envirocare has previously been approved for Class A waste disposal. The legislature chose to exempt two Envirocare license amendments in process of approval. One of the amendments allows Envirocare to accept mixed waste with Class A limits. The concentrations in uranium 225 can be significantly higher than what is approved in Envirocare's license; however, Bill 145 states that disposal facilities can accept the NRC's concentration limits. If Envirocare amends their license in accordance with the NRC's uranium limits, they will not be required to have legislative and Governor approval.

b. New Hires

Dane Finerfrock, Executive Secretary, introduced Loren Morton to the Board. Loren Morton is the new section manager for the Radioactive Waste and Environmental Monitoring Section. Dane Finerfrock, Executive Secretary, also introduced Dean Henderson to the Board. Dean Henderson was selected to fill a hydrology vacancy. Dean graduated from Utah State University with a B.S. degree in geology and an emphasis in hydrogeology. After graduating, he worked for Radiation Control for several months before moving into the private sector to work in environmental consulting.

VI. URANIUM MILL TAILINGS UPDATE (Board Information Items) – Dane Finerfrock

a. Federal Register Notice of February 12, 2004

The Federal Register Notice of February 12, 2004, is the NRC's formal declaration that they have reviewed the State of Utah's application for 11e(2) byproduct materials. They also state conclusions of the analysis of the state's program in their review.

b. Staffing

Dane Finerfrock, Executive Secretary, directed the Board to page 16 (1) and (2)

of NRC's "Assessment of the proposed Utah Program for the Regulation of 11e(2) Byproduct Materials as described in the Request for an Amended Agreement". 16 (1) states: "The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety...". 16 (2) states: "The Commission finds that the State program is in accordance with the requirements of subsection o. and in all other respects compatible with the Commission's program of the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed amendment." The proposed Utah Program for the Regulation of 11e(2) byproduct material is out for public comment. The public comment period will end on March 15th. If there are public comments, the NRC staff must address them. They will also make changes, if any are necessary as a result of the public comment. Further, in a few weeks, they will contact Governor Walker and transfer documents that will allow the state to assume jurisdiction over 11e(2) byproduct materials.

Comments From Board Members:

Dane Finerfrock, Executive Secretary, addressed Kent Bradford regarding the potential for a public hearing. He stated that if enough public interest were generated, there would be the possibility of a public hearing. The comments will be judged as substantive or non-substantive. If they are substantive NRC will resolve them. If they are non-substantive the NRC will respond to them, but the non-substantive comments would not be relative to the process of granting 11e(2) waste regulation to the State of Utah.

Gene White stated that after the State assumed jurisdiction over 11e(2) byproduct material, the DRC would regulate IUC. He asked if under the current regulation, the Fernald waste could go to IUC without obtaining approval (under 11e(2) that the NRC regulates). Dianne Nielson responded that absent the IUC filing for a license change the only place the Fernald waste could be sent would be Nevada for disposal at the DOE site.

Gene White stated his concern that if the IUC, hypothetically, applied and received a license change in order to receive the Fernald 11e(2) waste, the IUC's processing conditions would not be as safe as those at the Envirocare facility. Dianne Nielson, DEQ Director, responded that provisions in the NRC license would be as protective as those for Envirocare or any other entity handling the material. The objective for the 11e(2) material is for it to be transported and handled safely.

Kent Bradford asked if the IUC would have to have the Governor and legislative approval to take the Fernald 11e(2) waste. Dianne Nielson, DEQ Director, responded that IUC was a Uranium mill and it was not a radioactive waste disposal facility; consequently, it would not receive waste nor require legislative approval.

Dane Finerfrock, Executive Secretary, stated that there would be another change as a result of Radiation Control assuming regulatory responsibility of (IHC): the

Division would hire three new employees. He stated that recruitment was underway for a secretary, a mining engineer and a health physicist.

c. Moab Tailings Remedial Action Project Update – Loren Morton

Loren Morton discussed the Uranium Mill Tailings Activities, provided in the table below. He said the DRC denied GRAMA request to the Salt Lake Tribune. The GRAMA request was denied because of a confidentiality agreement between DRC and the Department of Energy; consequently, Radiation Control and other associate agencies could not release comments on the Uranium Mill tailings. However, once the draft agreement was published by DOE and the public comment period began, the Division would be free to release the comments.

Uranium Mill Tailings Activities – Since 12/5/03

Date	Activity/Description																
Moab Uranium Mill Tailings Project, Near Moab, Utah																	
<i>Past Activities</i>																	
January 16, 2004	<p>DEQ submitted comments to DOE-GJO regarding the Preliminary Draft Environmental Impact Statement (PDEIS). These comments came from the following State agencies:</p> <p>Division of Environmental Response and Remediation (DEQ) State Historical Preservation Office (SHPO) Division of Wildlife Resources Division of Radiation Control</p> <p>DEQ Comments: PDEIS Chapter 1 (Introduction) PDIES Chapter 2 (Proposed Alternative Actions), and PDEIS Appendix F (Screening of Contaminants to Aquatic and Terrestrial Resources)</p> <p>November, 2003 DOE River Migration Report</p>																
January 22, 2004	<p>DEQ submitted comments to DOE-GJO for Chapters 5 thru 11 of the PDEIS, as follows:</p> <table> <tr> <td><u>Chapter</u></td><td><u>Title</u></td></tr> <tr> <td>5</td><td>Cumulative Impacts</td></tr> <tr> <td>6</td><td>Unavoidable Impacts ...</td></tr> <tr> <td>7</td><td>Regulatory Drivers</td></tr> <tr> <td>8</td><td>List of Preparers ...</td></tr> <tr> <td>9</td><td>List of Agencies ...</td></tr> <tr> <td>10</td><td>Glossary</td></tr> <tr> <td>11</td><td>Index</td></tr> </table>	<u>Chapter</u>	<u>Title</u>	5	Cumulative Impacts	6	Unavoidable Impacts ...	7	Regulatory Drivers	8	List of Preparers ...	9	List of Agencies ...	10	Glossary	11	Index
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February 3, 2004	DEQ submitted comments to DOE-GJO for Chapter 3 (Affected Environment)																
February 17, 2004	DEQ denied a GRAMA request from the Salt Lake Tribune for copies of the State's PDEIS comments to DOE.																
<i>Future Activities</i>																	
TBD	DEQ comments on PDEIS Chapter 4 (Environmental Consequences) – in progress																
March 24, 2004	Cooperating Agency Meeting in Moab (8:30 am at LaQuinta Inn)																

VII. OTHER DIVISION ISSUES (Board Information Items)

a. Radon Grant: “IHC Women and Newborn Services” Outreach – John Hultquist

John Hultquist introduced the “IHC Women and Newborn Services” outreach program instigated with Intermountain Health Care. The program gives mothers of newborns the opportunity to order a free radon gas test kit. Radon information and a coupon is given to new mothers at the time of hospital discharge. He said the coupon distribution began in December 2003, and there have been 215 coupons returned for radon test kits. The program is receiving a 3% to 5% response rate (there are approximately 30,000 births at IHC hospitals each year).

Comments From Board Members:

Karen Langley, Chair, asked if any follow-up was conducted, after the tests were returned. She was also concerned that mothers of newborns may not need the added worry for Radon Gas when caring for new infants. She stated that inversion may effect the test results. John Hultquist stated that approximately 70% of the homes in Utah did not have a problem with radon gas. 30% of the homes tested, however, did have a problem. He said that he could contact those homes with radon gas that exceeded normal levels to alleviate concerns, but in most cases he does not contact the home-owner.

Dianne Nielson, DEQ Director, stated that both the home-owner and realtor are required to disclose any radon test result information. There is also some concern that Radon Gas information, provided by DRC, could be detrimental to private property values and private property rights. John Hultquist stated that the information was only made available by zip code, but at some point, it could be correlated to potential, radon map-studies.

Dane Finerfrock, Executive Secretary, introduced Laura Vernon to the Board and acknowledged her work with John Hultquest to implement the “IHC Women and Newborn Services” outreach program. Laura Vernon is the Public Information Officer for the Department.

b. Radiation Control Board Membership Change – Dane Finerfrock

Dane Finerfrock, Executive Secretary, informed the Board that Thomas Chism resigned from the Radiation Control Board. He said that Tom accepted a new position, and he was not able to continue as a Board member representing a regulated industry. Dane indicated that recruitment was in process to replace Tom; consequently, if Board Members knew of people in industry (that were interested), he would appreciate Board Members providing him with their names. He stated there were three regulated industries represented on the Board waste disposal, uranium mills and other. Thomas Chism represented other.

VIII. PUBLIC COMMENT

-None-

IX. OTHER ISSUES

- a. **Next Board Meeting – April 2, 2004, 2:00-4:00 PM, Department of Environmental Quality, Building 2, Conference Room 101, 168 North 1950 West, Salt Lake City, Utah**

Karen Langly, Chair, stated that the next Board Meeting was tentatively scheduled for April 2, 2004. The Board Members did not object; therefore, there will be a Board Meeting held on the above date.

MOTION MADE BY ROD O. JULANDER TO ADJURN. THE MOTION WAS SECONDED BY KENT BRADFORD.

CARRIED AND APPROVED UNANIMOUSLY

The Board meeting adjourned at 3:15 p.m.